Ontario

OFFICE OF THE WORKER ADVISER

ANNUAL REPORT

FOR THE PERIOD APRIL 1, 2007 TO MARCH 31, 2008

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OFFICE OF THE WORKER ADVISER (OWA)

2007-08 ANNUAL REPORT

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MESSAGE FROM THE DIRECTOR

I am pleased to present the Office of the Worker Adviser's annual report for fiscal year 2007-08, a year that has been filled with great opportunities and significant challenges.

In recognition of the valuable services the Office of the Worker Adviser (OWA) provides to non-unionized injured workers and their survivors, the Ministry of Labour (the "Ministry") increased resources to the OWA. This much needed increase in resources was provided to allow greater access to OWA services and to help us meet the demands of increasingly complex cases, especially occupational disease claims. To meet our case work demands, I made the difficult decision to simplify our service delivery model and move from three to two front line service positions. As a result, the OWA lost a number of valued long service employees, creating challenges for all concerned.

The additional resources, together with changes to our service delivery model, will enable us to focus our efforts more effectively on what we do best – represent vulnerable injured workers with complex WSIB appeals.

During the latter part of fiscal 2007-08, OWA recruited most of the additional Worker Advisers, Program Assistants and Legal Interpretation Specialists. The additional Worker Advisers will increase our capacity to resolve cases, thereby improving access to OWA representation in the workplace insurance appeal system for more injured workers and their survivors.

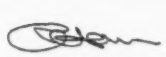
Preliminary statistics at fiscal year end showed that OWA had over 300 additional active representation cases than in previous years. Since a representation case takes an average of 30 months to resolve, however, the increase in representation cases has not yet translated into an increase in the number of resolved appeals.

In September 2007, OWA revised its case review criteria so that appeals with a "reasonable" chance of success were considered for representation. Previously OWA required a "significant" chance of success for a case to be opened. At the conclusion of the fiscal year it was already apparent that the proportion of cases considered suitable for representation services had increased by 14% over the previous year, reflecting a shift toward easier access to OWA services.

In order to better equip Worker Advisers to deal with the increasing numbers of complex occupational disease cases emerging throughout the province, OWA developed a comprehensive occupational disease training program for its staff. The goal is to have all staff trained by the end of next fiscal year.

The Office of the Worker Adviser continued to work with its system and community partners on additional WSIB Best Practices. We made extensive submissions to WSIB on its interim Bill 187 policies. We continued to provide feedback to the Workplace Safety and Appeals Tribunal as a member of its advisory group. We participated in a number of community events hosted by injured workers groups and the health and safety associations. Our involvement in these activities continues to enrich us.

Once again, I would like to thank our community and system partners for engaging with us, and our staff for their dedication and achievements.



Jorma Halonen, Director

INTRODUCTION AND BACKGROUND

The Office of the Worker Adviser ("OWA") was established in 1985, under the *Workers' Compensation Act* as a branch of the Ministry of Labour (the "Ministry") as an advocacy service for injured workers. In 1992, the OWA (along with the Office of the Employer Adviser) became an agency of the Ministry of Labour.

The Director of the Office of the Worker Adviser is an Order-in–Council appointment by the Minister of Labour. The Director's appointment is effective from April 3, 2006 through to April 2, 2009. The memorandum of understanding between the OWA and the Minister of Labour (the "Minister") provides that the Director of the OWA will report to the Minister annually. This report covers the fiscal year ending March 31, 2008.

MANDATE AND SERVICES

The OWA's mandate, established by s. 176(1) of the *Workplace Safety and Insurance Act, 1997* (the "Act"), is "to educate, advise and represent workers who are not members of a trade union and their survivors".

OWA's Vision is:

- to be a leader in advice, representation and education on workplace insurance on behalf of the most vulnerable injured workers and their survivors;
- to provide a vital public service that contributes to the effective functioning of Ontario's workplace insurance system and supports a healthy workforce in a strong, vibrant provincial economy; and,
- to contribute to improvements to workplace safety and insurance through community and system partnerships.

The OWA puts a high priority not only on the provision of professional and quality representation services to its clients, but also on promoting improvements to the overall functioning of, the workplace insurance system. Over 83% of former OWA clients surveyed in 2007-08 indicated that they were 'very satisfied' with the service they had received from the OWA.

Comments received from clients over the past year included:

- "Your compassion was so reassuring. Your explanations and past experiences were so helpful. You make a very stressful, complicated situation very understandable and even bearable. Thank you."
- "Our representative (Worker Adviser) was very good – especially because we are immigrants….somehow speed up the process."
- "…All times you treated me with dignity and respect and at my lowest point you made me feel valued and important."
- "…Really, really good. She (the Worker Adviser) prepare everything for the tribunal, very good. Even if we do not win, she was really fantastic!"
- "Thank you for all your very hard work. Much time was taken to prepare and I appreciate it.
- "I would like to thank my Worker who not only helped with my claim but found another claim I was entitled to."
- "Your service was very helpful and you knew what you were doing, even when I was unsure."

AN OVERVIEW OF OWA'S SERVICE DELIVERY

a) OWA Service Delivery

The OWA re-organized its service delivery in 2007/08 by shifting resources in order to maximize its capacity to provide representation in complex cases.

- Program Assistants have been trained to provide basic information to all injured workers who call the OWA for help, utilizing the OWA Website as an integral tool to provide comprehensive self-help information to injured workers.
- Worker Advisers provide advice to workers in crisis and in pressing cases and representation services in the more complex cases. OWA continues to train its advisory staff in occupational disease and other complex appeals.

Along with simplifying its service delivery model and increasing the use of technology, the OWA continues to focus resources on those appeals most needing OWA representation. In 2007/08 OWA shifted its case review standard from a 'significant' chance of success to a 'reasonable' chance of success. In addition, the OWA's case selection criteria was expanded to allow representation when the value of the benefits under appeal is worth the equivalent of four weeks (previously eight weeks) loss of earnings benefits. These changes were implemented by September 2007, resulting in an increase in the number of cases in which the OWA was able to represent. Although additional Worker Advisers were not hired until the latter part of the fiscal, the OWA still managed to reduce its representation backlog from 154 cases in March 2007 to 57 cases in March 2008.

Many of OWA's clients have significant disabilities, which makes it difficult to travel long distances to meet OWA staff when telephone contact is inadequate to meet their needs. These clients also face severe financial hardship, which further limits their ability to travel. In order to make our services as accessible as possible, the OWA holds clinics in communities where there are no OWA offices. Even in communities where OWA has offices, targeted clinics are held for groups of injured workers with special needs.

In 2007-08, OWA staff visited Brantford, Barrie, Belleville, Brampton, Kingston, North Bay, Oshawa, Pembroke, Peterborough and Stratford, and was involved in targeted clinics in the GTA, Sault Ste. Marie and Thunder Bay. We also have a satellite office in Sarnia to deal with occupational disease case clusters. Through these outreach activities OWA has successfully increased its accessibility, allowing disabled workers to meet with Advisers in person and close to their home communities, instead of having to travel to more distant locations.

In addition to serving individual clients, the OWA continues to build partnerships and referral relationships with MPP's and key organizations in local communities.

b) Central Client Services Unit

OWA's Central Client Services Unit (CCSU) has responsibility for central services relating to:

- legal advice and assistance to the OWA
- advice and representation in legally complex and/or precedent setting cases for OWA clients
- system improvement initiatives
- education materials and sessions for OWA staff and other representatives
- education materials for the public

In addition, in 2007/08 CCSU provided legal support for the OWA's two pilot projects to expand the services OWA provides to severely injured workers (CPP-D pilot) and to the survivors of workers whose deaths resulted from traumatic workplace fatalities (FAIR Partnership).

The General Counsel/Manager of CCSU along with four permanent full time and one temporary half time Legislative Interpretation Specialists (LIS) carried out CCSU's role. Highlights of CCSU work in the areas of representation, education and system improvement are included in the relevant sections of the annual report.

ACHIEVEMENTS IN KEY ACTIVITIES

(1) ADVISORY SERVICES

In many situations, with appropriate information injured workers are able to handle their workplace insurance issues on their own. If OWA can help injured workers become more self-sufficient, then staff resources can be assigned to the provision of representation services to clients whose cases are more complex.

For some injured workers the information available on the OWA website will suffice. To encourage self-help, workers or their survivors who contact the OWA are initially provided with summary advice consisting of basic information that the client can use in dealing directly with the Board or the employer.

Many non-unionized injured workers are vulnerable due to a combination of factors, including low education levels, lack of English language skills, and the stresses of unemployment and disability. As a result, it is important that information services be targeted at clients who are truly capable of self-help and that representation services are available to those who need them.

In 2007-08, OWA assisted 81% of the injured workers who contacted our offices with information and advice and 19% with representation (see Table 1a). The proportion of cases receiving only advice has remained relatively stable since 2004-05, at which time the number of new requests for service increased significantly to over 18,000.

OWA's overall workload and effectiveness is indicated by the number of different clients served during the fiscal year. In 2007-08, OWA assisted 13,255 different injured workers – down by 2% from 2006-07 levels. Analysis of these numbers indicates that this resulted from a small increase in the number of repetitive requests from the same workers. On the other hand, as noted later in this report, the number of cases OWA opened for representation has increased significantly, although the total number of worker appeals received by WSIB had decreased by 5.7% in 2007 over the 2006 figures.

The OWA supplements its advisory services with publications written specifically for injured workers. These fact sheets are available in paper form (in French and English) and can also be downloaded from the OWA website. In the past fiscal year, an average of 5774 different people visited the OWA website to download, on average, over 2000 self-help fact sheets each month. Overall, the website had between 172,000 and 200,000 hits per month. In addition to the fact sheets, the website provides a glossary of compensation terms, all forms needed for appeals, street maps to OWA offices, clinic times and locations, answers to frequently asked questions, and a direct link to contact us through e-mail inquires.

Analysis of Incoming Workload

Figure 1: Analysis of Incoming Workload

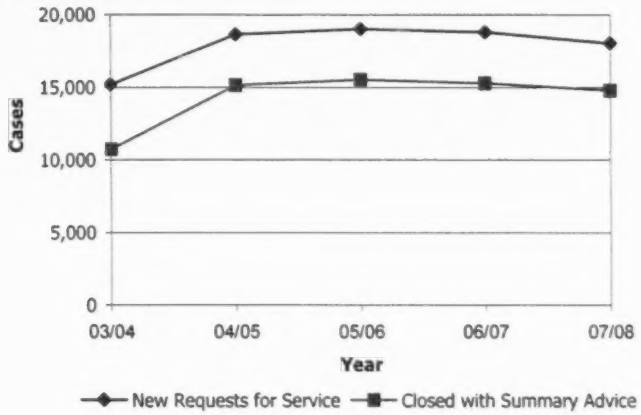


Table 1(a): Analysis of Incoming Workload

Incoming Workload	03-04	04-05	05-06	06-07	07-08
New Requests for Service	15,182	18,641	19,034	18,792	18,025
Closed with Summary Advice	10,724	15,144	15,518	15,279	14,775
% Closed with Summary Advice	71%	81%	82%	81%	81%
% Active Intervention Provided Beyond SA	29%	19%	18%	19%	19%
# of Individual Clients Helped	15,570	14,841	14,198	13,522	13,255

Determination of Cases for Which OWA Provides Representation

To help deal with the increasing demand for services, the OWA was compelled to develop policies for case selection. With the additional net staffing complement of 5.5 received by OWA in 2007/08, staff resources were shifted to provide more representation in complex cases, and at the same time relax the case review standard from a 'significant' chance of success to a 'reasonable' chance of success.

In September 2007, the OWA's threshold requirement in selecting a case for representation was decreased from a minimum of 8 weeks of benefits to 4 weeks of benefits, allowing for greater access to OWA representation services.

Case Review Selection:

In all cases considered for OWA representation, a worker adviser reviews the injured worker's Board file along with any new evidence and the Board's reasons for denying the services or benefits in question. All reasonable avenues for finding additional evidence are also considered. If the Worker Adviser concludes that a reasonable chance of success does not exist, the reasons for this decision are explained to the worker and confirmed in writing. If the injured worker can

provide additional information or evidence in support of the appeal, the OWA will revisit its decision. Cases do not need to be "guaranteed winners" to be approved for appeal level representation, but at the same time there must be sufficient evidence that gives the appeal a reasonable chance of success.

In 2007/08 OWA reviewed 2,841 cases and selected 1,706 of these cases for representation (a 14% increase over 2006/07), reflecting the relaxation of the case review selection criteria from a 'significant' to a 'reasonable' chance of success.

Table 1(b): Cases Selected

Cases Selected	03-04	04-05	05-06	06-07	07-08	% Change 06-07 to 07-08
Number of New Requests for Service	15,182	18,641	19,034	18,792	18,025	-3%
% Cases Reviewed for Representation of total New Requests for Service	15%	15%	14%	14%	16%	+11%
Number of Cases Reviewed for Representation	2,322	2,796	2,599	2,652	2,841	+7%
Number of Cases Selected for Representation	1,471	1,465	1,421	1,500	1,706	+14%
Number of Cases selected out	851	1,331	1,178	1,152	1,135	-1%
% Cases Selected Out of total New Request for Service	6%	7%	6%	6%	6%	

(2) REPRESENTATION SERVICES

OWA's Case Management Approach

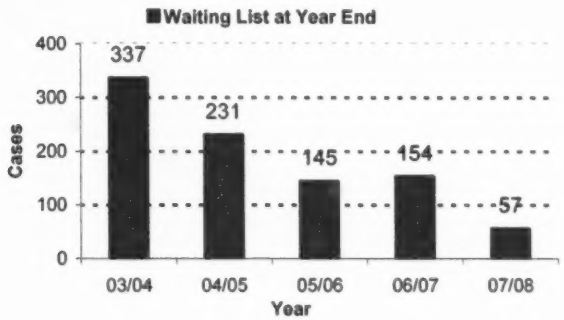
OWA's approach to case management is to support the injured worker in resolving the dispute directly with the employer or the Board. In the majority of new requests Program Assistants provide this support to the worker through general information and referral to the website.

There remain case specific enquiries or requests for representation on complex cases that cannot be resolved through general information. In these situations, Worker Advisers provide representation services at all levels of the adjudication and appeal process within the workplace insurance system. The representation file is closed when a satisfactory resolution of the case has been obtained, or when it is determined that there is not a reasonable chance of success in continuing, or when the worker's appeal rights have been exhausted.

Waiting List for Appeal Level Representation Services

With the change in service delivery, the OWA's waiting list had decreased by 63% to 57 cases as of the March 31, 2008 fiscal year end, the lowest level in OWA's history. At the same time the OWA continued to meet its performance commitment by commencing over 87% of appeals within 120 days of the initial case review. The average age of files on the waiting list was less than five months.

Figure 2: Waiting List at Year End



Case Closure Rate

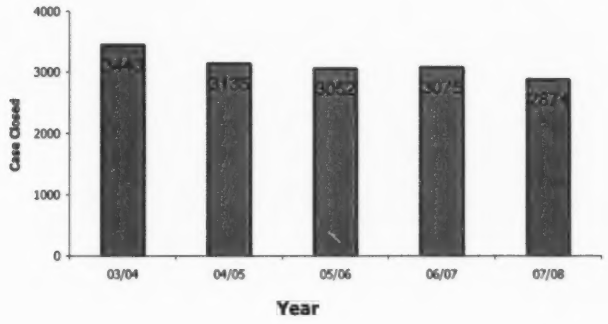
The case closure rate is a measure of OWA's capacity to manage its workload. Overall, the more cases closed, the more workers OWA can help, the faster their cases can be resolved and the shorter the waiting list becomes. There are other variables, especially the number of actual Worker Adviser staff available in any given year, the number of new incoming cases, and, the proportion of files closed by case review and full representation.

The emerging factor affecting the case closure rate is the increasing case complexity, not only of appeals in general, but of OWA cases in particular. This is partly a result of case selection procedures with OWA selecting the more complex cases to provide representation services, as well as the fact that OWA inherits complex cases abandoned by other representatives, particularly fee-for-service consultants. In addition, increasing numbers of formerly unionized workers and their survivors who no longer have representation are approaching the OWA for representation in complex occupational disease cases.

OWA's case closure measure, reported in Figure 3, includes both early resolution and full representation cases, as well as cases diverted from the appeals system through case review. The OWA closed 2874 representation cases in 2007-08. While this is a 6.5% decrease from the previous year, it reflects the fact that the agency made changes to its service delivery model and that the new staff were recruited late in the fiscal year. Given that cases take on average 30 months to resolve, increased file closures resulting from the carriage of additional cases will not be realized until, at earliest, 2008-09.

In this year of transition the proportion of cases opened after the initial case review for merit increased by 7% over the previous year, reflecting a shift toward easier access to OWA representation services. This increase in the number of representation files, in turn, is reflected in the expectation of a higher closure rate in the coming year.

Figure 3 : OWA Representation Cases Closed



The Appeals System and OWA's Role

OWA represents more injured workers than any other single organization in the province. This means that the OWA has a vital stake in helping improve dispute resolution and in avoiding future backlogs and system overload.

a) Early & Alternative Dispute Resolution Initiatives

Because of the increasing volume of cases in the appeals system, many of which involve complex legal, medical, and/or evidentiary issues, the focus has been to divert the simpler cases from proceeding to full formal hearings. Early Dispute Resolution/Alternative Dispute Resolution (EDR/ADR) includes efforts to resolve the workplace insurance issues with the employer and the operating level of the Board early in the process, as well as mediation and other non-hearing dispute resolution techniques at the appeals levels. Occasionally ADR techniques such as agreed statements of facts or focusing the issue agenda can streamline the appeals process even when a hearing is necessary.

While the use of early or alternative dispute resolution (EDR and ADR) continues to be an important aspect of OWA work, complex cases are not amenable to these approaches. It is likely, therefore, that the percent of cases that the OWA can resolve by these methods may continue to decline as suggested by Table 4.

By the end of March 2008, the OWA had 3300 representation cases opened, an increase of 300 cases over any previous fiscal year. As noted, historically it has taken, on average, 30 months for a case to close, but if, as is anticipated, the trend toward increased case complexity continues, average closure times may increase.

In terms of overall numbers, in 2007-08 OWA staff obtained a total of 2,984 decisions from the adjudication and appeals levels of the Board and from the Tribunal. While this is a slight decline over the previous year, it occurred entirely at the WSIB ARO appeal level, where we encountered scheduling delays relative to previous years.

However the number of issues in these decisions increased by 4.6% to 4,890, reflecting growth in case complexity and in the number of distinct problems resolved for injured workers.

Table 4: Decisions by Level

Decisions by level & use of Early or Alternative Dispute Resolution	05-06	06-07	07-08
WSIB – Operating Level	1,727	1,619	1,614
WSIB – Appeal Level	1,048	962	876
WSIAT	409	419	494
TOTAL Decisions by EDR/ADR from all Levels	2319	2,270	2,144
% Total Decisions by EDR/ADR	**73%**	**76%**	**72%**
TOTAL DECISIONS FROM ALL LEVELS	**3,184**	**3,000**	**2,984**
TOTAL ISSUES IN DECISIONS FROM ALL LEVELS	**4,816**	**4,674**	**4,890**

b) Significant Casework Performed by OWA in 2007-08

Occupational Disease: The OWA continued its work at the Tribunal level on a lead case in a cluster of occupational disease cases arising from a workplace in Sarnia. This included several submissions to the Tribunal regarding the identification of a suitable lead case and the process for adjudicating it, along with proposals for an ongoing strategy with respect to the cluster itself.

Mental Stress: The OWA's mental stress cases continued to work their way through the appeals system in 2007-08. Notices of constitutional questions were submitted in a number of these cases, in which it will be argued that the restriction on entitlement under s. 13(4) and (5) of the *Workplace Safety and Insurance Act, 1997* is discriminatory and violates the equality provisions in the *Charter of Rights and Freedoms* and the *Ontario Human Rights Code*.

Age Discrimination: The OWA is representing a worker who was seriously injured in a workplace accident at the age of 66 and subsequently had his leg amputated. In accordance with s. 43(1)(c) of the Act, the Board terminated the worker's loss of earnings benefits two years after the accident, though the worker continued to be disabled as a result of the workplace injury.

The OWA is pursuing this claim to test the argument that the limitation on benefits for older workers is discriminatory and violates the equality provisions of the *Charter of Rights and Freedoms*. With the assistance of two legal clinics, OWA has been gathering the background material and sociological evidence necessary to support a Charter challenge. OWA also reviewed several other age discrimination cases for possible representation.

Retroactivity of Board Policy on Integration of Canada Pension Plan Disability (CPP-D) Benefits with Workers' Compensation/Workplace Insurance Benefits: With the introduction of its policy, "Calculating CPP/QPP Offsets from FEL/LOE Benefits" (offset policy), the Board essentially ended its practice of integrating CPP-D benefits with partial future economic loss and loss of earnings benefits. This practice, which was in place from 1996 until the release of the offset policy in 2005, resulted in the under-compensation of many seriously disabled workers.

Although the Board acknowledged that workers had been under-compensated, it, nevertheless, chose January 1, 2004 as the application date for the offset policy, leaving workers affected by the Board's practice between 1996 and January 1, 2004 without a remedy for their loss. As this is an important systemic issue for a vulnerable group of permanently disabled workers, in 2006-07 OWA prepared generic legal submissions arguing for an application date back to 1996. In 2007-08 we received a negative decision on this point from the Tribunal. Subsequently, OWA revised its generic submission to include a new and stronger argument. Two decisions are expected from the Appeals Tribunal in 2008-09.

Time Limits: CCSU continued to provide significant support to individual staff and to the agency on issues related to statutory time limits. This included extensive review of a number of cases, tracking OWA cases involving missed time limits, and analyzing and reporting on OWA's experience.

Judicial Review* in *Mills v. Workplace Safety and Insurance Appeals Tribunal is a case that involved initial entitlement for a back claim. The worker was originally represented by the OWA, but the file was closed when the Tribunal denied the appeal. The worker retained a lawyer to represent him in an unsuccessful reconsideration request at the Tribunal, followed by a successful judicial review at Divisional Court. The Tribunal sought, and was granted, leave to appeal to the Court of Appeal. The OWA worked with outside counsel to represent the worker in responding to both the leave application and the appeal to the Court of Appeal. At the end of the fiscal year, the decision from the Court of Appeal was still pending.

c) Sample of OWA Noteworthy and Reported WSIAT Decisions

Decision No. 1529/04 I 2* - WSIB Benefits Are Subject to *Ontario Human Rights Code: The OWA presented the argument that the WSIB's practice of combining non-economic loss (NEL) amounts for injuries to different areas of the body to reduce the worker's overall NEL award is discriminatory and violates the *Ontario Human Rights Code* In an interim decision in this case the Panel found that the Tribunal had jurisdiction to consider the worker's arguments pursuant to the *Ontario Human Rights Code* and that benefits payable pursuant to the *WSIA* or *WCA* are "services" for purposes of Section 1 of the Code. This is a significant decision as prior WSIAT case law found that workplace insurance benefits were not "services" under the Code.

***Decision No. 425/06, 82 W.S.I.A.T.R.* - On-going LOE Benefits Awarded Where LMR Should Never Have Been Granted**: The worker appealed the WSIB's denial of on-going loss of earnings (LOE) benefits after his labour market re-entry (LMR) plan was terminated for non-cooperation. The worker's appeal was allowed in part. The WSIB had deemed the worker's earnings to be those of the suitable employment or business (SEB) that the labour market re-entry (LMR) program was based on, which resulted in the determination that there was no loss of earnings.

The WSIAT panel, on the other hand, found that the worker should never have been granted an LMR plan and granted on-going loss of earnings benefits based on an appropriate SEB without LMR assistance.

***Decision No. 2270/06* - Entitlement for Psychological Effects of Carpal Tunnel Condition and Mental Stress due to Harassment Related to the Work Injury** - The worker suffered from post traumatic stress disorder and depression following workplace harassment related to his compensable carpel tunnel condition. The harassment included a specific humiliating incident in which co-workers tried to put a box on the worker's head with a sign asking for donations for carpel tunnel. The panel found that the worker had entitlement on the basis of psychotraumatic disability from the carpel tunnel condition or for traumatic mental stress under the relevant WSIB policies.

***Decision No. 1322/07* – Student Awarded Higher Earnings Basis and Partial LOE Benefits** The OWA successfully argued for a broad interpretation of WSIB policy to allow for a higher earnings basis for the worker, a university student. In particular, earnings from private swimming lessons and potential overtime were allowed to be included in the worker's earnings basis (average earnings). In addition, the worker was found to be entitled to partial LOE benefits after he returned to school on the basis that he would likely have worked part time had he not been injured.

Decision No. 1886/07 – **No Apportionment of Pension in the Absence of a Pre-existing, Measurable, Non-compensable Impairment** – The worker's pension for work-related chronic obstructive lung disease had been apportioned by WSIB at 20% due to workplace exposures and 80% due to a smoking history. The pension was paid by the Board retroactive to 1993. The Tribunal agreed that apportionment was not appropriate in this case as there was no evidence of a pre-existing, measurable, non-compensable impairment. The worker was found entitled to his full pension benefit retroactive to 1988.

For many other Tribunal decisions of interest involving the OWA, please consult the "Summaries of WSIAT Decisions Involving OWA" link on the home page of OWA's website at www.owa.gov.on.ca .

(3) EDUCATIONAL SERVICES

The OWA provides educational services to injured workers through information sessions held in communities across the province and through the provision of general information from the OWA website, which contains a comprehensive collection of fact sheets, kits and frequently asked questions on workplace insurance topics.

During 2007-08, the OWA held 152 educational sessions, including information sessions and self-help clinics for injured workers, in communities throughout the province. The majority of the information sessions focused on the workplace insurance system especially as it relates to injured workers. In addition, the OWA provides higher-level educational services to community and system partners and representatives who work in the field of workplace insurance.

Highlights of Educational Sessions

CAW 2007 Workers' Compensation Conference, September 2007: OWA presented on the amendments to the *Workplace Safety and Insurance Act, 1997* brought in by Bill 187.

OBA Fourth Annual Current Issues in Workplace Safety and Insurance Law, May 2007: OWA provided a paper and presentation which outlined recent trends in the Tribunal's mental stress case law.

OWA Occupational Disease Course: OWA developed a four-day course on representing in occupational disease claims. The course was delivered on two occasions by a member of CCSU staff and a Worker Adviser from the Elliot Lake office.

Professional Responsibility: OWA completed a major update of its Professional Responsibility Guide. These revisions took into account both the new *Public Service of Ontario Act* and the new regime of paralegal regulation. Training materials were also revised and a day-long session on professional responsibility was delivered to newly hired Worker Advisers.

OWA Program Assistants also received professional responsibility training relevant to their position, taking into account the legal environment under paralegal regulation.

OTHER KEY ACTIVITIES IN 2007-08

(1) SYSTEM PARTNERSHIP AND COMMITTEE WORK

WSIB Best Practices Working Groups
A number of OWA staff, along with other worker-side representatives, work with senior Board staff to develop agreed statements of principles regarding the adjudication of claims. These statements are then converted by the Board into training documents aimed at improving the fairness and consistency of Board decision making.

OWA participated in a number of subcommittees of the WSIB Best Practices Working Group, to address a variety of complex issues. Issues worked on in 2007-08 included:

- adjudication under the "Traumatic Mental Stress" policy
- adjudication under the Board's Serious Injury Program
- non-economic loss awards
- musculoskeletal disorders and return to work
- belated offers of return to work after LMR has started
- the protocol for LMR providers and workers in crisis.

WSIB Best Practices Steering Committee
The OWA Director sits on this committee, which is comprised of a small number of key worker-side representatives and senior Board staff who determine the issues to be referred to the Best Practices Working Group. This committee also reviews and comments on final versions of the documents drafted by the working group and subcommittees.

System Partnership Working Group: This group is comprised of representatives from WSIB, OWA and OEA, who generally meet twice a year to consider resolutions to service delivery issues related to our system partners.

Workplace Safety and Insurance Appeals Tribunal (WSIAT) Advisory Committee:
The WSIAT Advisory Committee includes the WSIAT Chair and other senior officials and members representing both the worker and employer communities. In 2007-08, the OWA participated in the one meeting of this committee.

Formal Policy and/or Law Reform Submissions

WSIB Consultation on Policies to Support Bill 187 changes to the WSIA: The OWA provided submissions in response to the Board's consultation on the interim Bill 187 policies. These submissions expressed OWA's concern with the general direction of the interim policies, as in our view they did not conform to the intent of the Bill 187 amendments. The OWA prepared a detailed statutory interpretation of the Bill 187 amendments, and made extensive comments and recommendations for improvements to the interim policies.

WSIAT Consultation on Practice Directions: CCSU staff reviewed and provided extensive written submissions on the draft revisions by WSIAT of its practice directions.

System and Community Partnership Committees and Activities

MPP Constituency Offices: The OWA offices continued to provide information and referral material to MPPs' constituency offices. OWA's local offices have developed, and are

maintaining, good working relationships and referral processes with constituency offices. In 2007-08 there were 242 cases referred from MPP offices to the OWA.

Fatalities and Immediate Response (FAIR) Partnership: The OWA, the Workplace Safety and Insurance Board, the Ministry of Labour Operations Division and a support group for families called Threads of Life continued an innovative partnership to improve services and supports to families of workers killed on the job. The goal of the FAIR Partnership is to provide timely, seamless and comprehensive assistance to the survivors following a traumatic workplace fatality. Some of these families need immediate advice, referral and representation in dealing with the difficult impacts of losing a loved one to a workplace tragedy.

Canada Pension Plan Disability (CPP-D) Pilot: The CPP-D pilot project was introduced in 2006-07 in the OWA's Ottawa, Downsview, Hamilton, Sault Ste. Marie and Sudbury offices. An initial analysis of the CPP-D pilot was completed and the number of injured workers involved in the pilot remained modest. The CPP-D pilot phase ended March 31, 2008. Preliminary analyses completed to date do not support the need for continued OWA involvement in CPP-D appeals.

Workers in Critical Need and in Crisis: This committee, which includes the Board, Ministry of Labour, WSIAT and the OWA, developed a protocol for expediting adjudication, hearings and/or decisions for workers in crisis. The protocol's purpose is to limit gaps in service and ensure that urgent cases for vulnerable workers in crisis receive priority attention.

(2) OWA TRANSFER PAYMENT PROGRAM

The OWA administers and ensures accountability for the Building and Construction Trades Council Training Program (PBCTCO) transfer payment program. The Minister of Labour, as part of OWA's Business Plan submission, approves the Transfer Payment Program as well as specific funding for PBCTCO.

The purpose of the PBCTCO program is to develop and deliver workplace insurance training, specific to the needs and concerns of the construction sector, to its members. The key objectives of the program are two-fold: to strengthen self-reliance among members of the construction unions through training in workplace insurance issues and to ensure the availability of trained union representatives for those members requiring assistance.

The PBCTCO funding program also provides extensive mentoring and support to trained representatives, which, combined with the formal training, results in a significant increase in the number of cases handled by trained representatives.

The OWA reviews and approves the PBCTCO Annual Business Plan and manages the transfer payment program through the administration of an annual Service Level Agreement, which includes performance measures, training outcomes and financial reporting requirements on a quarterly basis. OWA assesses the training outcomes against the actual year-end performance measures and financial reports. Year-end audited statements are required prior to approval of payment for the following year.

(3) TECHNOLOGY AND INFORMATION MANAGEMENT IN SUPPORT OF CLIENT SERVICES

OWA's Case Management System (CMS)

A number of changes to OWA's case management system (CMS) were developed and implemented in the 2007-08 fiscal year to augment staff's ability to provide timely service to

clients, by providing web-based document management functions. Staff also received training as part of the implementation of CMS upgrades. .

To accommodate OWA staff with disabilities, the web-based CMS was further modified to provide keyboard options to minimize the use of the mouse as well as by the development of macros to better enable the use of voice recognition software.

The CMS is a true technology enabler for OWA staff. Its infrastructure and interface ensures faster client service and provides a more effective means of achieving results for OWA clients.

OWA Website: http://www.owa.gov.on.ca

The OWA website contains over 800 pages, including an introductory OWA fact sheet in 21 languages. In 2007-08, the OWA added a detailed workers' information kit on non-economic loss awards and revised existing content to reflect amendments to the *Workplace Safety and Insurance Act, 1997,* which came into force July 1, 2007.

The OWA also continued to add significant decisions to the website outlining the successful work of OWA staff on behalf of injured workers and their survivors.

Knowledge Management

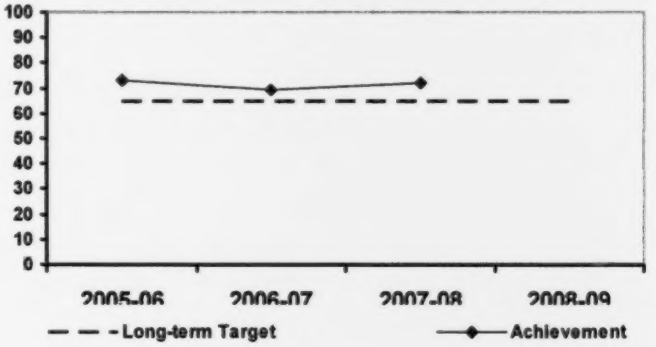
The OWA creates a significant amount of workplace insurance case and appeal related materials that have the potential for generic use, and contribute to more effective case preparation. The OWA developed and implemented a web-based knowledge management system to replace the manual index of research materials. This electronic catalogue of research materials has significantly increased knowledge retention and knowledge transfer within the organization. Much of this material is full text and replaces duplicate paper copies filed in individual offices. During 2007/08, new legal and medical resources were added to the data base.

In 2007/08 the OWA initiated a SharePoint project to provide staff an OWA intranet for document development, project management, and a forum for sharing information and planning activities. OWA is working with ETC SharePoint developers to design the site. In 2008/09 this OWA Intranet will be deployed and all staff trained.

APPENDIX A – OUTCOME PERFORMANCE MEASURE

Performance Measure #1: Early and Alternative Dispute Resolution

Percentage of Decisions Obtained by EDR or ADR



Agency Contribution

The OWA's focus is to provide support for early and safe return to work and for early resolution of disputes without recourse to formal hearings, by diverting cases from the appeals system and finding alternative dispute resolution at the appeals level.

What does the graph show?

This graph shows the proportion of decision results on OWA appeals that were achieved without formal hearings. The long-term commitment reflects changes in disputes resolved without a formal hearing due to increased case complexity as well as number of appeal cases.

2007/08 Year End Performance Achievements

72% of all decisions were obtained by EDR or ADR, however, as the service delivery shifts to more complex representation, it is anticipated that the long-term target will remain at 65% of decisions to be obtained by EDR or ADR.

APPENDIX B – INTERNAL PROGRAM PERFORMANCE ACHIEVEMENTS

Measure	Standard/Long Term Target	2006-2007 Achievement	2007-2008 Commitments	2007-2008 Year End Achievements (as at March 31, 2007)
Early and Alternative Dispute Resolution	65% of all decisions to be obtained by early (EDR) or alternative dispute resolution (ADR)	69% of all OWA decisions were obtained by early or alternative dispute resolution, however, as service delivery shifts to more complex representation, the long term target remains at 65%.	OWA expects to achieve at least 65% of all issues resolved by EDR or ADR.	OWA exceeded commitment by resolving 72% of all issues by EDR or ADR
Effectiveness of advisory & representation services	150 issues per FTE	153 issues per staff were resolved, based on new case management system (CMS) statistics. Benchmarks for targets and commitments are being developed over the next two fiscal years.	With the new case management system OWA was able to determine the number of results/issues resolved per representation staff as well as the number of advisory events (including website). OWA maintained it's commitment of 150 issues resolved per FTE in 2007-08.	203 issues per staff were resolved, based on the CMS statistics for number of issues resolved by OWA representation and by number of advisory events.
Timeliness of Appeals Representation Service	100% of all cases involving appeals representation service to commence within 120 days	Exceeded 2006-2007 Commitment, with 89% of appeal cases commencing within 120 days	In 2007/08 OWA's commitment was to maintain or improve 2006/07 timeliness.	In 2007/08 OWA was able to almost reach it's long term target by having 89% of all cases involving appeals representation service commence within 120 days.

APPENDIX C – FINANCIAL REPORT FOR ANNUAL REPORT – FISCAL YEAR 2007/2008

All Figures in $000.0 thousand

Account	Final Budget*	Total** Actual Expenditures	Variance	Explanation
Salary & Wages	**7,435.0**	**6,589.4**	**845.6**	Recruitment for additional staff delayed
Benefits	**1,634.9**	**1,542.9**	**92.0**	Recruitment for additional staff delayed
Transportation & Communications	390.0	406.2	(16.2)	
Services (incl. Office leases)	1,711.6	1,629.1	82.5	
Supplies & Equipment	105.3	235.1	(129.8)	
ODOE TOTAL	**2,206.9**	**2,270.4**	**(63.5)**	Renovation of two offices delayed
Transfer Payment	225.0	250.0	(25.0)	Approval of additional $25,000 for TP program
OWA TOTAL	**11,501.8**	**10,652.7**	**849.1**	
Recoveries	**(11,500.8)**	**(10,652.7)**	**(848.1)**	
TOTAL	**1.0**	**0.0**	**1.0**	

* Final Budget = Printed Estimates +/- TBO, in-year re-alignment of funds by standard account.
**Total Actual Expenditures including office lease costs.

APPENDIX D - OWA OFFICE LOCATIONS

TORONTO & EASTERN REGION

HEAD OFFICE & TORONTO OFFICE
Office of the Worker Adviser
123 Edward Street
Suite 1300
Toronto ON M5G 1E2

SCARBOROUGH OFFICE
Office of the Worker Adviser
2275 Midland Avenue
Unit 3
Scarborough ON M1P 3E7

MISSISSAUGA OFFICE
Office of the Worker Adviser
10 Kingsbridge Garden Circle
Suite #512
Mississauga ON L5R 3K6

OTTAWA OFFICE
Office of the Worker Adviser
347 Preston Street, 3rd Floor
Ottawa, ON K1S 3H8

SOUTHWEST REGION

LONDON OFFICE
Office of the Worker Adviser
495 Richmond Street
Suite 810
London ON N6A 5A9

HAMILTON OFFICE
Office of the Worker Adviser
119 King Street West
13th Floor
Hamilton ON L8P 4Y7

WINDSOR OFFICE
Office of the Worker Adviser
880 Ouellette Avenue
Suite #601
Windsor ON N9A 1C7

ST. CATHARINES OFFICE
Office of the Worker Adviser
301 St. Paul Ave. 9th Floor
St. Catharines ON L2R 7R4

NORTHWEST REGION

SAULT STE. MARIE OFFICE
Office of the Worker Adviser
70 Foster Drive
Suite 480
Sault Ste. Marie ON P6A 6V4

THUNDER BAY OFFICE
Office of the Worker Adviser
435 South James Street
Suite 335, 3rd Floor
Thunder Bay ON P7E 6S7

TIMMINS OFFICE
Office of the Worker Adviser
60 Wilson Avenue
Suite 303, 3rd Floor
Timmins ON P4N 2S7

ELLIOT LAKE OFFICE
Office of the Worker Adviser
50 Hillside Drive North
Elliot Lake ON P5A 1X4

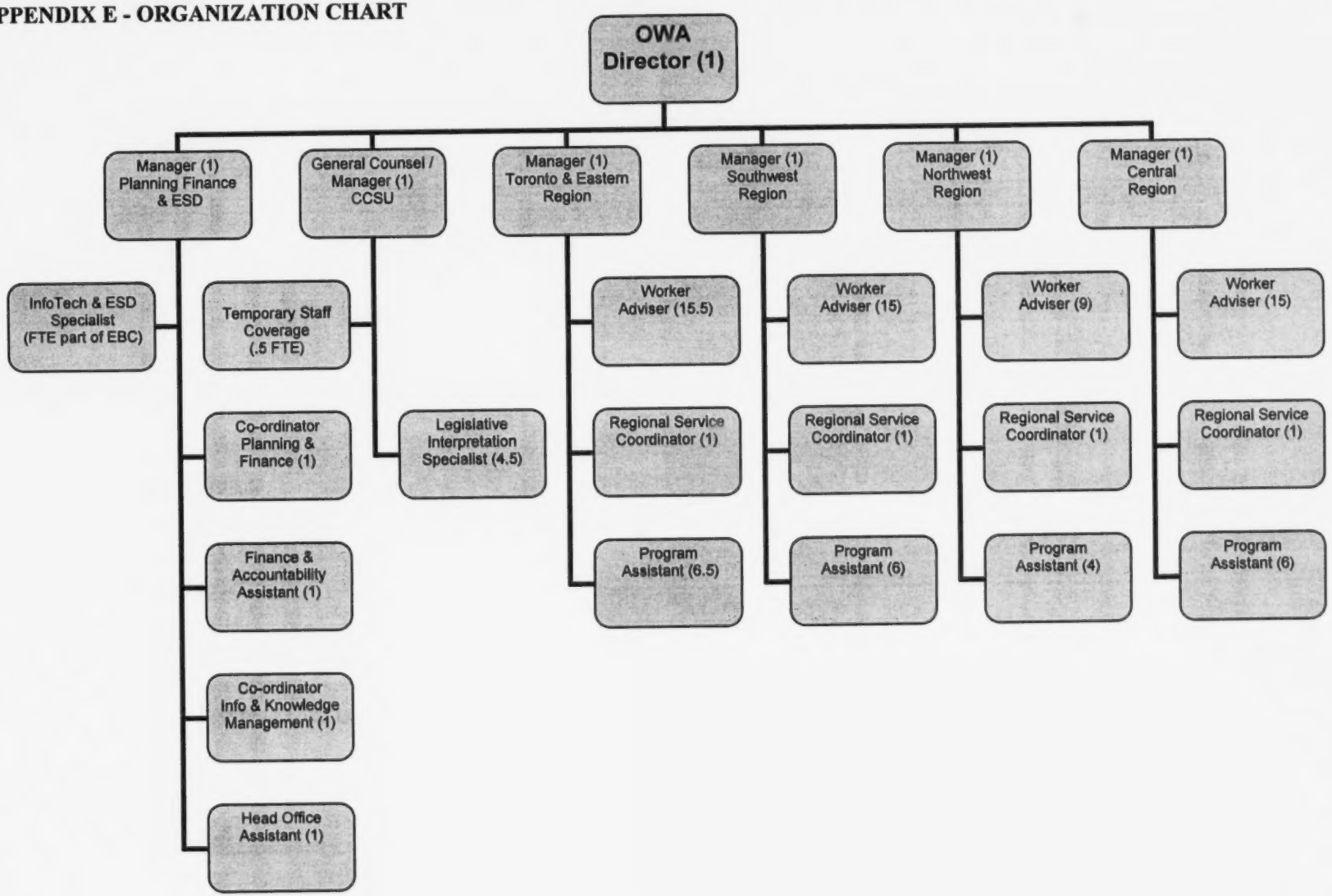
CENTRAL REGION

SUDBURY OFFICE
Office of the Worker Adviser
159 Cedar Street
Suite 304
Sudbury ON P3E 6A5

DOWNSVIEW OFFICE
Office of the Worker Adviser
1201 Wilson Avenue
Building C, Suite 125
Downsview ON M3M 1J8

WATERLOO OFFICE
Office of the Worker Adviser
155 Frobisher Drive
Unit G (213)
Waterloo ON N2V 2E1

APPENDIX E - ORGANIZATION CHART


OWA Director (1)
Manager (1) Planning Finance & ESD
General Counsel / Manager (1) CCSU
Manager (1) Toronto & Eastern Region
Manager (1) Southwest Region
Manager (1) Northwest Region
Manager (1) Central Region
InfoTech & ESD Specialist (FTE part of EBC)
Temporary Staff Coverage (.5 FTE)
Co-ordinator Planning & Finance (1)
Finance & Accountability Assistant (1)
Co-ordinator Info & Knowledge Management (1)
Head Office Assistant (1)
Legislative Interpretation Specialist (4.5)
Worker Adviser (15.5)
Regional Service Coordinator (1)
Program Assistant (6.5)
Worker Adviser (15)
Regional Service Coordinator (1)
Program Assistant (6)
Worker Adviser (9)
Regional Service Coordinator (1)
Program Assistant (4)
Worker Adviser (15)
Regional Service Coordinator (1)
Program Assistant (6)

2007-2008 OWA STAFF ALLOCATION = 97 FULL TIME EQUIVALENTS (FTE)